

LOWER SAUCON TOWNSHIP
NORTHAMPTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2019-02

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF LOWER SAUCON BY CREATING CHAPTER 85 (FIREWORKS) TO PROVIDE REGULATIONS FOR THE DISPLAY AND USE OF DISPLAY FIREWORKS AND CONSUMER FIREWORKS WITHIN THE TOWNSHIP; ESTABLISHING RESTRICTIONS ON THE TIMES THAT FIREWORKS MAY BE DISPLAYED OR USED; PROHIBITING THE USE OR DISPLAY OF FIREWORKS ON TOWNSHIP OWNED PROPERTY WITHOUT THE PERMISSION OF THE COUNCIL OF LOWER SAUCON TOWNSHIP; AND ESTABLISHING PENALTIES FOR VIOLATIONS.

WHEREAS, the Township of Lower Saucon is a Township of the Second Class, Optional Plan, located in Northampton County, Commonwealth of Pennsylvania; and

WHEREAS, the Township of Lower Saucon adopted Ordinance #98-17 on May 20, 1998, enacting the Code of the Township of Lower Saucon (hereinafter referred to as the “Code”); and

WHEREAS, the Council of Lower Saucon Township desires to amend the provisions of the Code to add Chapter 85 (Fireworks) to provide regulations relative to the display and use of both Display and Consumer Fireworks and;

WHEREAS, the Township has the authority to regulate the use of Display and Consumer Fireworks, and to require permits and adopt rules and regulations for the use and display of both types of fireworks pursuant to Sections 1506, 1527, 1529, and 1534 of the Second Class Township Code, 53 P.S. §§66506, 66527, 66529, and 66534; and the Commonwealth of Pennsylvania Fireworks Law, 72 P.S. §§9401-9416.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Township of Lower Saucon, Northampton County and the Commonwealth of Pennsylvania as follows:

SECTION 1.

Chapter 85 of the Code of the Township of Lower Saucon (Fireworks) is hereby established, enacted, ordained, and added to the Code as follows:

CHAPTER 85
FIREWORKS
ARTICLE I
General Provisions

§85-1. Legislative Intent.

The Council of Lower Saucon Township having found that the unregulated use and display of both Consumer and Display Fireworks, including the noise and visual disturbances that accompany such use and result from the ignition and discharge of such devices is detrimental to the physical, mental, and social well-being of Township residents as well as similarly detrimental to their comfort, living conditions, general welfare and safety, and peaceful enjoyment of their residences, and as such is generally detrimental to the public health, safety, and welfare; hereby declares that it is the intent of this Chapter to provide for greater control of the negative effects of the display and use of Consumer and Display Fireworks, while balancing the rights of the public to use such devices.

§85-2. Definitions.

APA 87-1.

The American Pyrotechnics Association Standard 87-1: *Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics*, 2001 edition, or any subsequent edition.

Consumer Fireworks.

1. Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, chemical composition, and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for “consumer fireworks” as defined in APA 87-1 or any successor standard, the sale, possession, and use of which shall be permitted in Lower Saucon Township subject to the regulations provided in this Chapter 85.
2. The Term does not include devices as “ground held sparkling devices”, “novelties”, or “toy caps” in APA 87-1 or and successor standard, sale, possession, and use of which shall be permitted at all times within Lower Saucon Township.

Display Fireworks.

Large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. The term includes but is not limited to:

- (a) Salutes that contain more than two grains or 130 milligrams of explosive materials;
- (b) Aerial shells containing more than 60 grams of pyrotechnic composition; and

- (c) Other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

Occupied Structure.

A structure, vehicle or place adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.

§85-3. Applicability.

This Ordinance shall apply to both display fireworks and consumer fireworks as previously defined herein.

§85-4. Display Fireworks.

Display fireworks may be possessed and used by a person holding a permit from the Township at the display site covered by the permit or when used as authorized by a permit for any of the following:

- (a) For agricultural purposes;
- (b) By railroads or other transportation agencies for signal purposes or illumination;
- (c) In quarrying or for blasting or other industrial use;
- (d) In the sale or use of blank cartridges for a show or theater;
- (e) For signal or ceremonial purposes in athletics or sports;
- (f) By military organizations.

§85-4. Display Permits.

Any person seeking to possess and use display fireworks within the Township must file an application and obtain a permit for the same.

§85-5. Permit Qualifications.

The permit for display fireworks may not be issued to a person under twenty-one (21) years of age.

§85-6. Permit Bond.

To obtain a permit, a bond in the sum of not less than Fifty Thousand Dollars (\$50,000.00) conditioned on the payment of all damages which may be caused to a person or property by reason of the display and arising from an act of the permittee or an agent or an employee or subcontractor of the permittee must be filed with the Township. The terms of the bond shall be subject to Township approval.

§85-7. Permit Requirements.

The application for the permit:

- (a) Shall contain the applicant's name and address.
- (b) Shall be verified by production of the applicant's proof of age in the form of a photo ID, driver's license or passport.
- (c) Shall contain a certification that the applicant or applicant's pyrotechnician agrees to maintain One Million Dollars' worth of liability insurance for the activity related to the display fireworks which will cover damages relating to the possession and use of the same. The insurance shall name the Township as an additional insured for all claims

arising in whole or in part out of the display. Said insurance shall be primary over any Township insurance. (The Township does not waive in any way the provisions of governmental immunity.) The liability insurance shall not be a substitute for the bond required by statute.

- (d) Shall state the date, time and place where the display fireworks will be held.
- (e) Shall acknowledge that the applicant has read the Township's Ordinance and the applicable State statute governing display fireworks and agrees to be bound by all the terms and conditions contained therein.
- (f) Shall be made in writing on a form prescribed by the Township at least thirty (30) days in advance of the date set for the display.
- (g) Shall identify the professional pyrotechnician and set forth the pyrotechnician's credentials evidencing competency to perform the display.

§85-8. Applicants/Owners.

If the property upon which the display fireworks are going to be displayed or used is jointly owned, the applicants must all be owners of the property.

§85-9. Permit Fee.

The cost of the permit shall be established by the Township by resolution and charges for the same must be paid in full before the issuance of the permit. Until such resolution is passed, the fee for a permit shall be \$250.00.

§85-10. Pyrotechnician Qualifications.

The permit shall identify the professional pyrotechnician who will be in charge of the display and exhibit proof that the pyrotechnician is duly licensed and authorized to act in such capacity.

§85-11. Extension for Permit Due to Unfavorable Weather.

If, because of unfavorable weather, the display for which a permit has been granted does not occur at the time authorized by the permit, the person to whom the permit was issued may within 24 hours apply for a request for extension to the municipality which granted the permit. The request for extension shall state under oath that the display was not made, provide the reason that the display was not made, and request a continuance of the permit for a date designated within the request, which shall not be later than one week after the date originally designated in the permit. Upon receiving the request for extension, the Township, if it believes that the facts stated within the request are true, shall extend the provisions of the permit to the date designated within the request, which shall be no later than one (1) week after the date originally designated in the permit. No additional fee or bond shall be required. If a new Township permit is required due to cancellation of the original date of display and a new application is filed within thirty (30) days of the same, there shall be no additional permit fee charged by the Township.

§85-12. Additional Regulations for Display Fireworks.

The Township hereby adopts these additional regulations concerning Display Fireworks displays in the Township:

- (a) Only one (1) fireworks display permit may be issued per quarter calendar year for a particular property or to a particular person.
- (b) The maximum time for the display shall be no greater than thirty (30) minutes and shall occur between 7:00 P.M. and 10:00 P.M.

- (c) The minimum size lot within the Township for holding a fireworks display shall be five (5) acres. Parcels of contiguous land may be combined to achieve the necessary lot size, however, all owners must agree and apply for the permit.
- (d) All fireworks must be launched from said permitted property, must explode over the permitted property and all debris must fall on the permitted property. No fireworks launched within the permitted property may be launched less than 300 feet from any existing occupied structure or 200 feet from any adjacent property line.
- (e) No fireworks display may be held when a burn ban is in effect. Any party holding a valid permit and unable to renew the permit within the thirty (30) day time frame due to a burn ban will receive a refund of the permit fee. The fireworks permit must be conspicuously posted on the property.
- (f) No fireworks displays may be held, even with a permit, where the weather has wind gusts over 20 miles per hour.
- (g) There shall be no daytime displays of fireworks except for test shots.
- (h) All ground displays shall be treated the same as aerial displays under these regulations.
- (i) There shall be no more than three test shots fired prior to the conduct of the display.

§85-13. Notification of Fire Company and Fire Marshal.

Anyone obtaining a permit must notify the fire company and Fire Marshal duly recognized by Lower Saucon Township of their intention to have a fireworks display on the property and pay a reasonable fee to the fire department to have a representative or fire apparatus on site at all times during the display.

§85-14. Indemnification.

As part of the permit process, all owners of the property upon which the displays are going to be held must sign the request for the permit which shall also include a provision that the permit holders, including the property owners, all jointly and severally, agree to hold harmless and defend the Township from all claims arising in whole or in part from fireworks displays and such hold harmless and indemnity provision must be signed as part of the permit application.

§85-15. Cessation of Display.

Any Police Officer, fire company representative or Township official may immediately suspend or halt the fireworks display should they observe violations of these regulations or any actions which could cause imminent harm to property or persons.

§85-16. Failure to Adhere to Regulations.

Any applicant or property of an applicant used for display fireworks who violates this ordinance or any of the State regulations and laws governing the same shall be ineligible to apply for a display fireworks permit for a period of three (3) years following the date of the violations or infractions. Any person who is aggrieved by a notification of violation from the Township Manager or his designee shall have the right to appeal to the Township Council for an administrative hearing concerning the same. Said appeal must be filed within ten (10) days from the date contained in the certified letter notifying the party of the violations and prohibition period.

§85-17. Consumer Fireworks.

No person who owns, possesses, or has control or supervision of Consumer Fireworks shall permit, make or cause the ignition, discharge, or launch of such Consumer Fireworks within the Township of Lower Saucon between the hours of 10:00 P.M. and 9:00 A.M.

§85-18. Use of Consumer Fireworks on Township Property Prohibited.

Use of Consumer Fireworks by any person, on any property owned or maintained by Lower Saucon Township is hereby prohibited. This prohibition shall apply to parks, the Saucon Trail, buildings or structures, parking lots, streets, roadways, sidewalks, and rights of way.

§85-19. Consumer Fireworks Prohibited Within 150 Feet of an Occupied Structure.

Pursuant to the Pennsylvania Fireworks Law, and the provisions of this subsection, no person may intentionally ignite or discharge Consumer Fireworks within 150 feet of an occupied structure.

§85-20. Penalties.

In addition to the above Section 16, any person who violates a provision of this ordinance, the permit requirements or regulations and brought before a District Justice upon a determination of violation thereof shall be subject to a fine of not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00) for each and every offense. Each person violating this ordinance shall further be liable for all attorneys' fees incurred by the Township in enforcing the same.

SECTION 2. SEVERABILITY

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, illegal, or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council of Lower Saucon Township hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional, illegal, or otherwise invalid.

SECTION 3. REPEALER

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 4. Effective Date.

The provisions of this Ordinance shall become effective five (5) days after adoption.

ENACTED and ORDAINED this 15th day of May, 2019.

Attest

Lower Saucon Township

Leslie Huhn
Township Manager

Priscilla deLeon
Council President